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Kootenai Tribe of Idaho*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION**

CENTER FOR BIOLOGICAL DIVERSITY, <i>et al.</i> ,  Plaintiffs,  vs.  U.S. FOREST SERVICE, <i>et al.</i> ,  Defendants.  KOOTENAI TRIBE OF IDAHO,  Proposed Defendant- Intervenor.	Case No: 9:22-cv-91-DLC-KLD  <b>UNOPPOSED MOTION TO INTERVENE</b>
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**UNOPPOSED MOTION TO INTERVENE**

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PORTLAND, OR 97201

Pursuant to Rule 24 of the Federal Rules of Civil Procedure (FRCP), proposed defendant-intervenor the Kootenai Tribe of Idaho (the Tribe) respectfully moves to intervene as a matter of right or permissively in this case challenging the Forest Service's Knotty Pine Project on the Kootenai National Forest.

Counsel for the Tribe conferred with counsel for the existing parties and reports they do not take a position on the Tribe's intervention on the following terms regarding brief lengths and briefing schedule.

**Regarding brief lengths**, the parties agree that the current Case Management Order, ECF No. 12, should be amended to include: (1) an expansion of the word limit for Plaintiff's Combined Opposition and Reply to 10,000 words; and (2) an 8,000-word limit for the Tribe's Combined Opposition and Cross-Motion for Summary Judgment and a 3,250-word limit for the Tribe's Reply brief.

**Regarding the briefing schedule**, the parties agree that the Tribe should file its briefs on the same schedule as federal defendants.

Thus, if the Court allows the Tribe to participate in this case involving its aboriginal territory, the Case Management Order should be amended to read:

Plaintiffs' motion for summary judgment  
and brief in support (limited to 10,000  
words):

October 12, 2022

Federal Defendants' combined cross-motion for summary judgment and response to Plaintiffs' motion for summary judgment (limited to 10,000 words):

November 16, 2022

Intervenor's combined cross-motion for summary judgment and response to Plaintiffs' motion for summary judgment (limited to 8,000 words):

November 16, 2022

Plaintiffs' combined response to Federal Defendants' and Intervenor's cross-motions for summary judgment and reply in support of their motion for summary judgment (limited to 10,000 words):

December 14, 2022

Federal Defendants' reply in support of their cross-motion for summary judgment (limited to 6,500 words):

January 19, 2023

Intervenor's reply in support of its cross-motion for summary judgment (limited to 3,250 words):

January 19, 2023

Regarding the substance of the Tribe's motion, intervention of right under FRCP 24(a) is warranted because the Tribe satisfies all four factors for intervention. First, this motion is timely because it is being filed at an early stage of the case. Plaintiffs filed their Amended Complaint on July 29, 2022, and federal defendants will file their Answer to the Amended Complaint on August 26, 2022,

with the administrative record due to be lodged by September 14, 2022. Second, the Tribe has a significant interest in defending the Project, which is located in its aboriginal territory, because the Project is consistent with the Tribe's holistic and proactive approach towards land management within Kootenai Territory and with the Tribe's mission to guard and keep the land forever. Third, absent participation in this case, the Tribe will have no opportunity to defend against plaintiffs' efforts to impede the forest health benefits that will flow from Project implementation in Kootenai Territory. Fourth, the existing parties do not adequately represent the interests of the Tribe because they do not (and cannot) share the sovereign interests of an Indian Tribe. Alternatively, the Court could grant permissive intervention under FRCP 24(b) because the Tribe's timely defenses share common questions of law and fact with the main action, which is all that is required for permissive intervention.

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In support of intervention, the Tribe relies on the accompanying Memorandum in Support of Motion to Intervene, the Declarations of Gary Aitken, Jr., Vice-Chairman for the Tribe, and Scott Soult, Fish and Wildlife Department Wildlife Division Manager, a proposed Answer, and the pleadings on file with this Court.

Dated this 24th day of August, 2022.

/s/ Kris A. McLean  
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Julie A. Weis  
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*pro hac vice* pending)

*Attorneys for Proposed Intervenor Kootenai  
Tribe of Idaho*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 24th day of August, 2022, I served a true and correct copy of the foregoing document, via CM/ECF on:

Clerk of U.S. District Court

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